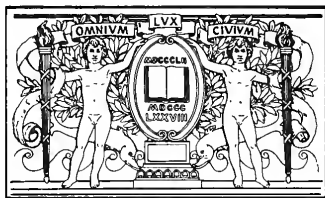


Δ
m3/B16
FC
P7/1

BOSTON PUBLIC LIBRARY



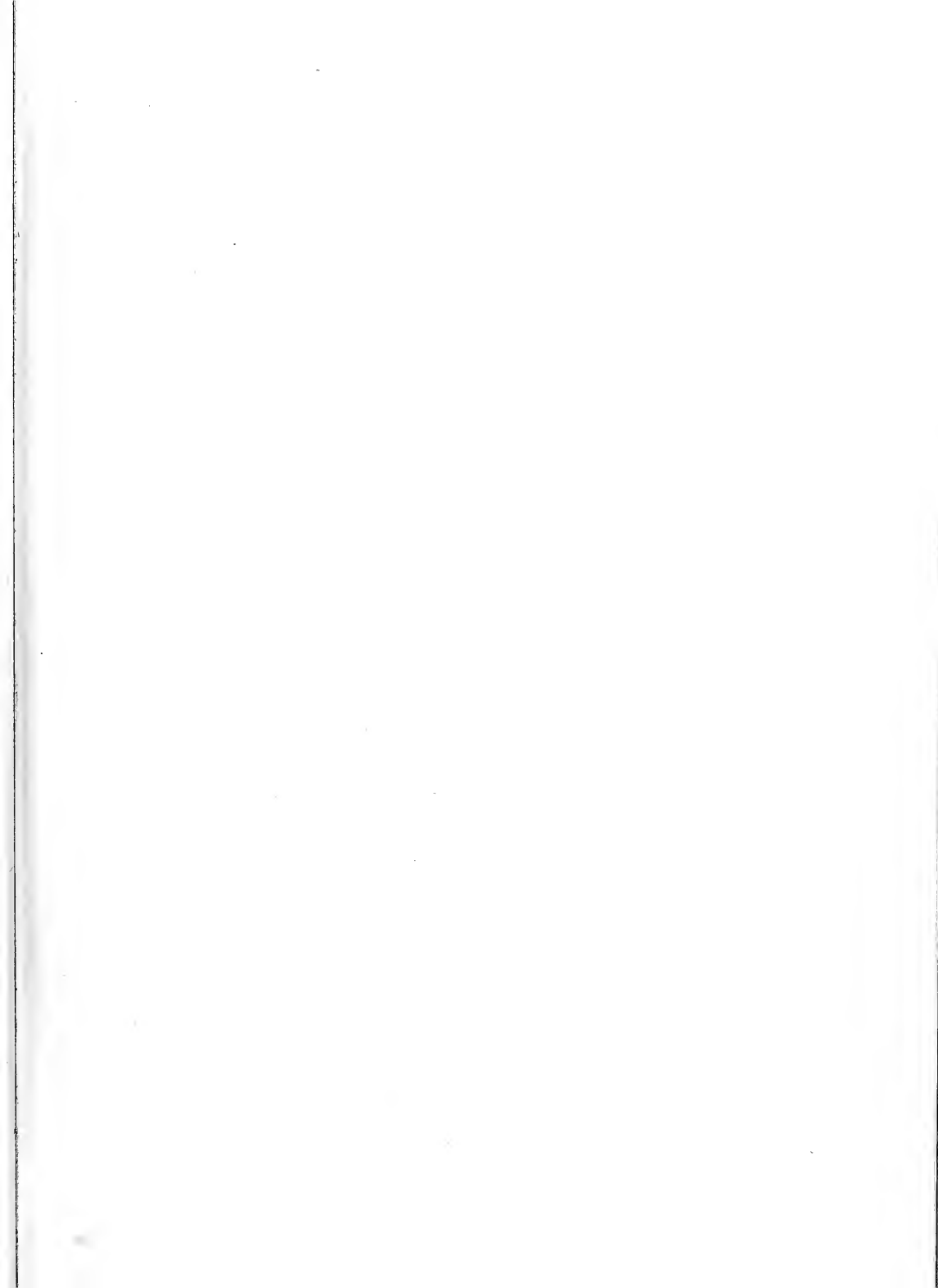
3 9999 06588 798 4



**BOSTON
PUBLIC
LIBRARY**



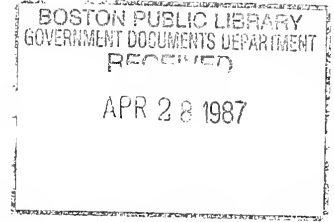
Digitized by the Internet Archive
in 2011 with funding from
Boston Public Library





CITY OF BOSTON
FINANCE COMMISSION

294 WASHINGTON STREET
SUITE 817
BOSTON, MA. 02108
TEL. 482-9706



John L. Tobin, Esq., Chairman
George Huggins
Jack E. Molesworth
Sean Mullin
Dennis Quilty, Esq.
Jeffrey W. Conley
Executive Director

April 9, 1987

INVESTIGATION OF THE PROPERTY FORECLOSURE
AND PROPERTY DISPOSITION PROCESS
UTILIZED BY THE CITY OF BOSTON



CITY OF BOSTON
FINANCE COMMISSION

294 WASHINGTON STREET
SUITE 817
BOSTON, MA. 02108
TEL. 482-9706

John L. Tobin, Esq., Chairman
George Huggins
Jack E. Molesworth
Sean Mullin
Dennis Quilty, Esq.
Jeffrey W. Conley
Executive Director

April 9, 1987

Honorable Raymond L. Flynn
Mayor of Boston
City Hall
Boston, MA 02201

Dear Mayor Flynn:

Enclosed is a report on an investigation of the property foreclosure and property disposition process utilized by the City of Boston. The Commission evaluated your policy of reclaiming abandoned properties and creating affordable housing units. Our focus was on the Office of the Collector-Treasurer, the Tax Title Division of the Law Department and the Public Facilities Department.

There have been problems implementing your policy. There was an unmanaged backlog of tax delinquent cases resulting in properties being allowed to deteriorate for years before being foreclosed. Property sales were made without reasonable guidelines. There were no assurances that the renovation of property would result in the creation of low to moderate income housing.

The Commission has included its findings on each department and some recommendations to improve the management of the process. We found the responsible departments to be generally receptive to acknowledging management problems and initiating improvements. The Public Facilities Department has completely overhauled its management of the sale of foreclosed properties. The one area that remains a problem is the management of tax delinquent cases in the Office of the Collector-Treasurer.

The findings in the report are made to help you review the management of an administrative policy. The recommendations are offered to aid that management effort.

Very truly yours,

John L. Tobin
Chairman

TABLE OF CONTENTS

INTRODUCTION	Page 1
OFFICE OF COLLECTOR-TREASURER, FINDINGS	Page 2
OFFICE OF COLLECTOR-TREASURER, RECOMMENDATIONS	Page 9
TAX TITLE DIVISION, FINDINGS	Page 11
TAX TITLE DIVISION, RECOMMENDATIONS	Page 16
PROPERTY DISPOSITION, FINDINGS	Page 17
PROPERTY DISPOSITION, RECOMMENDATIONS	Page 23
CONCLUSION	Page 25

INTRODUCTION

The Finance Commission has spent several months on an investigation of the property foreclosure and disposition process utilized by the City of Boston. The Commission originally intended to evaluate the manner by which the City implemented its policy of developing low and moderate income housing units from abandoned properties in tax possession. However, after a preliminary analysis it was obvious that the acquisition of property through tax foreclosure was a key ingredient in the process. It was decided to evaluate the management of tax collections by the Collector-Treasurer, the tax foreclosure process as managed by the Tax Title Division of the Law Department and the disposition process, primarily managed by the Public Facilities Department.

During the course of the investigation the Commission took the following steps:

- Conducted eight hearings with thirteen witnesses providing testimony to the Commission.
- Researched the history of every property sold by the City of Boston through the property disposition process during the period of October 1984 through December, 1986.
- Reviewed the files of over 800 properties which were petitioned to foreclose by the City of Boston.
- Made site visits to properties sold by the city.
- Questioned numerous city officials concerning delinquent property taxes, tax foreclosure and the management of cases filed in Land Court.
- Interviewed people who had purchased property through the disposition process, others who had hoped to do so and people on record with the city as being concerned with specific abandoned properties.

The administration of Mayor Raymond L. Flynn made the reclamation of abandoned property a priority in September, 1984. Previously, all foreclosed properties in the possession of the City were disposed of through an auction process. Property was sold to the highest bidder. There were no conditions

placed on sales. The Flynn administration determined that too many properties sold at auction remained abandoned or in an unimproved condition. It attempted to implement a strategy to expedite the foreclosure process and identify people who would be interested in developing property into low and moderate income housing. The Mayor created a working group of department heads referred to as the Property Disposition Committee.

The Property Disposition Committee was comprised of the officials responsible for departments which had a role in either the acquisition or disposition of property. There are three departments which have major roles in the process, the Office of the Collector-Treasurer, the Tax Title Division of the Law Department and the Public Facilities Department. It was those agencies which were the focus of this investigation.

OFFICE OF THE COLLECTOR-TREASURER

The Office of the Collector-Treasurer is responsible for collecting property taxes. The collection process is successful in most cases, however, the failure to pay taxes leads to the foreclosure of property. Properties which are foreclosed are placed in tax possession and comprise the inventory which is developed into low and moderate income housing units. The manner in which the Collector-Treasurer manages property tax collections is a key to the disposition process. The findings of the Finance Commission regarding the management of this department are as follows:

1. It has done a much improved job collecting current property taxes by introducing a more comprehensive and understandable tax bill. It has placed added emphasis on secondary collection efforts using letter writing campaigns and rent taking agreements;

2. It has not cleared up the backlog of tax delinquent cases. There are approximately 10,000 delinquent cases pending action;

3. The department has held cases with delinquencies of more than five years and others with taxes outstanding for ten and more years without petitioning those properties for foreclosure;

4. The office has a "Tax Title Working Group" assigned the task of clearing up the backlog. Its goal is to resolve 150 cases weekly and prioritize the largest delinquencies. The effort has not been successful. Only 339 cases were petitioned between July 1, 1986 to March 1, 1987. It has not petitioned delinquent properties based on the amount of the delinquency;

5. The department does not have sufficient staff to effectively manage the backlog of tax delinquent cases. Positions are presently approved and budgeted and yet have remained vacant. This contributes to the inability to manage the backlog of tax delinquent cases;

6. The Collector-Treasurer has managed payment agreements haphazardly and interfered with payment agreements made by the Law Department in cases filed in the land court;

7. The failure to petition properties with longstanding delinquencies adversely affects the Mayor's policy of developing abandoned properties into affordable housing units.

Property tax collection is a straightforward process following the certification of the tax rate. Bills are scheduled to be mailed bi-annually. Taxpayers have thirty days to pay the bill with interest charged if the bill is not paid by the due date. Failure to pay a bill leads to a demand notice being sent to the taxpayer, fourteen days after the due date. Two additional weeks of delinquency results in a warrant notice advising the taxpayer that nonpayment

will cause a lien to be placed on the property and that foreclosure proceedings will be commenced. The same process occurs for each billing period but failure to pay the second half bill triggers the placing of a lien on the property. The City has sixty days to record the lien in the Registry of Deeds and can legally commence foreclosure proceedings six months from the date of placing the lien.

The office of the Collector-Treasurer has taken several steps which has improved the collection of current taxes. It sought and received approval from the Department of Revenue to revise the tax bill to identify past due amounts because the previous bill was confusing to taxpayers regarding past tax liability. The department also instituted a policy of mailing out duplicate bills to new owners of property. Because tax bills are sent to the assessed owner of record, new owners are not immediately identified by the Assessing Department. This results in people receiving bills which are in the name of the previous owner, oftentimes causing confusion and non-payment. The department has also generated more collections with a letter writing campaign directed at delinquent taxpayers. It has entered into rent taking agreements using tenants rents to pay delinquent taxes.

The chart on the following page examines over 800 cases petitioned for foreclose in 1985 and 1986. The analysis identifies the Office of the Collector-Treasurer as being primarily responsible for cases remaining in a tax delinquent status for long periods of time. There were nineteen properties delinquent for eleven years before being petitioned. Two hundred and ninety-seven cases took over five years before being petitioned. These delinquencies predate the Flynn Administration. However, the backlog was identified by the Mayor's Management Review Committee¹ as a significant problem

¹ The Mayor's Management Review Committee was commissioned in December, 1985 to review the management of city agencies.

Delinquent Property Processing Delays

Collector Treasurer's Office
 Analysis of Finance Commission Review Sample
 821 Total Cases

<u>Year of Delinquency</u>				<u>Period of Delinquency</u>			
Cases Forwarded to Tax Title Division				Delay in Forwarding to Tax Title Division			
Year	in 1985	in 1986	Total	Time	in 1985	in 1986	Total
1975	4	21	25	11 Years	-	19	19
				10 1/2	-	-	0
1976	5	7	12	10	-	5	5
				9 1/2	4	2	6
1977	10	27	37	9	-	8	8
				8 1/2	6	3	9
1978	9	5	14	8	-	23	23
				7 1/2	10	3	13
1979	2	138	140	7	1	58	59
				6 1/2	7	51	58
1980	17	67	84	6	-	30	30
				5 1/2	2	12	14
1981	3	5	8	5	-	53	53
				4 1/2	17	4	21
1982	6	10	16	4	-	-	0
				3 1/2	14	-	14
1983	356	4	360	3	-	10	10
				2 1/2	178	3	181
1984	-	125	125	2	-	12	12
				1 1/2	173	113	286
1985	-	-	-	1	-	-	0
<hr/>				<hr/>			
Total	412	409	821	Total	412	409	821

and recommendations were made to eliminate it. They were not implemented by the Collectox-Treasurer.

The Mayor's Management Review Committee analyzed the problem of delinquent taxes in a December, 1985 report. It identified the outstanding delinquency at the time as approximately \$106million. Over \$58million of that was outstanding for over ten years, another \$32million had been owed from 5 to 10 years. The previous administration had allowed the backlog to grow out of control. The Mayor's Committee offered several recommendations to resolve the problem. It noted the limited staffing, recommended engaging private collectors, suggested contacting delinquent taxpayers directly by phone and expanding office hours to be more accessible to the public. The recommendations were not implemented by the Collector-Treasurer and although progress was made on the backlog, it remains an unresolved problem.

The Collector-Treasurer identifies the backlog in the following categories:

- 1- 3,987 cases involving 1986 taxes which will not be ripe for petitioning until April, 1987;
- 2- 1,457 cases of 1985 takings currently being prepared for petitioning;
- 3- 751 cases involving small amounts of money which it claims are not appropriate for petitioning because the filing fee, \$262.50, is more than the amount owed;
- 4- 416 parcels which are either tax exempt or 121A properties;
- 5- 260 potentially exempt properties;
- 6- 1,825 parcels of vacant land;
- 7- 944 unpetitioned cases from 1984 and earlier;

A "Tax Title Working Group" was formed by the Collector-Treasurer to work towards resolving this backlog. Its policy is to prepare petitions according to the highest amount owed and to respond to requests from the Property Disposition Committee for expedited foreclosure. The goal is the resolution of 150 cases per week. The "Tax Title Working Group" is comprised of employees of the

Collector's Office, each of whom has job responsibilities which consume a considerable amount of time. The group failed to meet from July 1986 to January 1987. The January 1987 meeting did not set a clear agenda. Only 339 cases have been petitioned from July 1, 1986 to March 1, 1987, far less than the stated goal of resolving 150 weekly. The cases are also not prioritized. A breakdown of the 339 cases petitioned over the past eight months is as follows:

Delinquencies over \$10,000-----	153
Delinquencies between \$5,000-\$10,000-----	41
Delinquencies between \$2,000-\$5,000-----	66
Delinquencies under \$2,000-----	79
	<u>339</u>

One of the main reasons that the backlog is unresolved is the limited staffing of the office. There are presently six deputy tax collectors. They have a considerable workload collecting current taxes. There are numerous interruptions to the normal workday with phone calls and walk-in traffic, especially during the tax season. Office space is limited. Deputy tax collectors are not all provided with a computer terminal to access the files. There are no evening hours and no employees assigned to be outside collectors, visiting the homes of people with outstanding delinquencies. The staffing shortage was identified as a problem by the Flynn Administration in December, 1985. Seven new positions were added to the fiscal year 1987 budget and fully funded. These positions are not yet filled more than nine months into the fiscal year.

There has been a longstanding dispute over the management of payment agreements between the Collector-Treasurer and the Law Department. The Collector-Treasurer believes that his department has the primary responsibility for all payment agreements. He is of the opinion that such agreements are his sole responsibility up until the time a case is petitioned in Land Court. Even after a case is filed in court by the Law Department, the Collector insists that

he be apprised of the terms and conditions of agreements made by the Law Department.

There are only ad hoc policies regarding the management of payment agreements. Prior to petitioning the responsibility for collection rests with the Collector-Treasurer. Agreements are permitted as long as a reasonable down payment is made, all properties owned by the delinquent taxpayer with outstanding taxes are involved and the repayment time is two years or less. Agreements are not to be made on properties identified by the Property Disposition Committee as meriting expedited foreclosure. It is also agreed that once a case is petitioned, the Collector-Treasurer will not accept any payment without consulting with the Law Department.

The Collectors Office has not managed its payment agreements effectively. The Commission reviewed the agreements on file and found that there was no central recordkeeping. Files were kept in the desk drawers of deputy tax collectors. Out of the 61 we reviewed, 25 or 41% were in default. The agreements were loosely structured and inconsistent. Some were more than two years; others had small down payments; still others had missed monthly payments. The outstanding delinquency was not always identified. There were often no updates on why payments had been missed. There were ten cases which had recommendations from the deputy tax collector to initiate foreclosure proceedings yet the case was sitting in a desk drawer. Agreement had been made on several cases which had already been petitioned yet no consultation had been made with the Law Department.

Two cases were particularly troublesome. In November 1986 an agreement was made with the 146 Winthrop St. Trust to repay over \$97,000 in taxes on six parcels of vacant land. The delinquency dated back to 1973. The down payment was only \$1,000 with a \$25,000 payment due on January 1, 1987. That payment was

not made. Three of the six parcels had already been petitioned to foreclose. The Law Department was not notified of the payment agreement. The Trustees of the Winthrop St. Trust were not notified that three of the six parcels were already in Land Court. The three parcels not yet petitioned had been identified for expedited foreclosure by the Property Disposition Committee. The agreement was contrary in almost every respect to accepted policy.

Another case involved the Collector-Treasurer holding funds in escrow on a foreclosed property at 7 Alvah Kittredge Park. The property was foreclosed in August, 1985 for nonpayment of taxes dating back to 1978. Just prior to the foreclosure the previous owner sold his interest in the property. The Collector Treasurer was contacted by the new owner about paying the outstanding taxes of \$11,000. The Collector-Treasurer agreed to hold money in escrow while the new owners sought an abatement of the taxes. The Collector-Treasurer sought to have the City request that the decree of foreclosure be vacated because the new owner intended to develop the property into low income housing units. The Collector Treasurer was advised by the Law Department of the problems such an escrow agreement would cause. The sale was free and clear of encumbrances. The property had been identified as a priority by the Property Disposition Committee. There was concern about vacating a decree without payment of back taxes. Regardless, a petition to vacate was prepared and filed in Court. The property was redeemed. Ultimately the abatement was denied and the money held in escrow used to pay the back taxes. However, the property was not renovated and remains a boarded up building.

RECOMMENDATIONS FOR THE COLLECTOR TREASURER

1. The backlog of tax delinquent cases must be reduced. A plan should be

worked out between the Collector-Treasurer and the Law Department which will establish a schedule for the petitioning of past due accounts.

2. Cases should not remain in the Collector-Treasurer's office for more than two years. The foreclosure process is an extension of the collection effort. Over 95% of all petitioned properties are redeemed. The filing of a case in land court increases the options of the City to collect taxes. When threatened with foreclosure, taxpayers find a way to pay their taxes. The prompt filing of delinquent cases will also identify any errors at a relatively early stage.

3. The Collector-Treasurer should immediately fill the seven budgeted positions in the Collecting Division. The Collector-Treasurer explained that there were a variety of circumstances which has led to those slots being vacant. The staffing problem was identified well over a year ago. The positions were sought and funded and the office should not be allowed to remain understaffed. The failure to fill those slots has directly contributed to the backlog not being resolved and has had an adverse effect on the Mayor's housing goals.

4. There has not been effective communication between the Tax Title Division and the Collectors Treasurer's Office. A deputy tax collector should be assigned to manage cases being petitioned for foreclosure. That official could insure that petitions were accurate, he could verify the tax liability, be responsible for the timely posting of payments and generally act as a facilitator between the two departments.

5. The Collector-Treasurer should be responsible for payment agreements cases prior to the point of being petitioned. Once the petition is forwarded to the Law Department, the Collector should not be involved any further. A case is petitioned in the first place when collection efforts are unsuccessful and the

Law Department should handle the case once legal action has been initiated.

Payment agreements must also be centrally managed, kept current and standardized.

6. The Collector Treasurer should avoid involving himself in escrow agreements for tax delinquents. In the case of 7 Alvah Kittredge Park the money paid to the Treasurer should have been applied to the taxes due, not placed in escrow pending a possible abatement. His job, as he has explained to us, is to collect taxes. The Collector Treasurer acted against the advise of the Law Department and contrary to the position of the Mayor's Property Disposition Committee. His argument, that the property was to be renovated, was based on a verbal agreement. The property was not renovated.

7. The recommendations of the Mayor's Management Review Team should be reconsidered. Evening hours, outside collection efforts and personal contact with taxpayers can only improve efforts to collect taxes.

LAW DEPARTMENT-TAX TITLE DIVISION

The Tax Title Division (TTD) of the Law Department is responsible for the administration of all cases filed in the land court for foreclose. The duties of the department are straightforward; file all petitions to foreclose and follow each case through to redemption or foreclosure. The findings of the Finance Commission concerning the management of the department are as follows:

1. The foreclosure process is the final extension of the collection of property taxes. Over 95% of all cases filed in Land Court by the Law Department are redeemed by delinquent taxpayers;

2. Filing cases in Land Court by the Law Department in a timely fashion leads to a quicker resolution of the tax delinquency;

3. The quality of work in the department was effective with detailed files supporting decisions made in most cases;

4. The stated goal of filing cases in court within one week of receipt has not been met. Too many cases spent up to several months before being filed in land court;

5. The backlog of tax delinquent cases currently in the land court exceeds 3,500. However, the backlog is not the fault of the tax title division. It is due to the excessively long periods of time it takes the Collector to prepare cases for petitioning;

6. The department does an effective job in most areas except for identifying parties requiring notice in the foreclosure process. It has a limited ability to track down such people, generally relying on outdated information sources and part time students to do the work;

7. The department manages its payment agreements effectively, relying on the court process as the trigger mechanism for compliance on agreements.

The Commission reviewed over 800 cases petitioned in 1985 and 1986. We reviewed 413 cases which were closed and 409 cases where the delinquency was unresolved. The breakdown of closed cases was as follows:

Cases redeemed-----	246
Cases withdrawn due to mistakes made by the Collectors Office-----	60
Foreclosures-----	17
Cases paid on request by TTD prior to filing-----	54
Cases where account was paid in the Collectors Office without notice to the TTD-----	27
Cases paid via a payment agreement-----	4
Cases where property was taken by the BRA-----	2
Cases with property taken by MassPort-----	1
Taxes paid off by HUD-----	1
Abated-----	1
	<u>413</u>

Based on the review of closed cases it is apparent that few properties are foreclosed. Only 17 of 413 were foreclosed representing just 4% of the total. The majority of cases are redeemed with the owners paying the delinquency plus interest and court costs. The TTD routinely sends out letters to people with delinquencies under \$1,000 advising the taxpayer that failure to pay within ten days will result in a foreclosure action. The letter is a successful technique as it generates payment in a high percentage of cases.

We reviewed over 400 active or unresolved cases in the TTD. The following is a breakdown of those cases:

Cases not filed-----	11
Cases withdrawn-----	2
Cases paid or abated but not final-----	47
Petition to vacate filed-----	1
Title examiner to be assigned-----	5
Title exam incomplete-----	40
Title exam filed-----	102
Citation issued-----	120
Special notice-----	62
Sheriff Service-----	5
Service complete-----	9
Right to reclaim pending-----	5
	<u>409</u>

The land court process is slow. The process is delayed for a variety of reasons and the City has no control over much of it. After a case is filed the first step is the title examination. Examiners are assigned by the court and there are not enough examiners to insure that this first step is completed in a timely fashion. It can take months to complete title examinations. The next step is the noticing of those affected by the foreclosure, that is anyone with an interest in the property. The interested parties are identified by the TTD and notices are sent to them by the Court. The TTD is not sufficiently staffed to do the job. It relies primarily on students and uses information sources which are years out of date. The result is a delay in court action. The court will not

proceed with a case unless it is assured of the proper notice being sent. A review of the open case file shows that it is the noticing area where many cases become bogged down.

The Tax Title Division claims that following receipt of a case from the Collector-Treasurer the case can be filed in Land Court within one week. However, that does not happen. The following chart examines the time it takes to file cases.

Period-Receipt from C/T to Case Filing			
Time	Rec'd.	Rec'd.	Total
Weeks	in 85	in 86	Cases
1	102	2	104
2	81	170	251
3	83	34	117
4	51	33	84
5	4	-	4
6	34	11	45
7	40	-	40
8	-	31	31
9	-	-	-
10	-	10	10
12	-	77	77
14	-	1	1
16	-	30	30
19	3	-	3
20	-	8	8
22	1	-	1
34	2	-	2
Total Filed	401	407	808
Not filed	11	2	13
Total	412	409	821

Cases are resolved when filed in land court. The following chart shows that once legal action commences the threat of foreclosure is a serious factor. Two hundred and sixty cases were paid off within ten months of filing, over one hundred of those within three months. Taxpayers can stall and delay payment prior to petitioning but once the case is in court there are only two resolutions, redemption or foreclosure.

Period-Receipt to Final Resolution			
Time Months	Resol- ved	Fore- closed	Total
22	-	-	-
21	3	-	3
20	-	-	-
19	-	-	-
18	-	1	1
17	-	-	-
16	-	1	1
15	3	5	8
14	2	-	2
13	1	3	4
12	-	-	-
11	4	-	4
10	14	-	14
9	11	2	13
8	16	3	19
7	32	-	32
6	37	1	38
5	38	-	38
4	33	-	33
3	36	-	36
2	27	1	28
1	55	-	55
<hr/>			
	312	17	329
Cases filed in error			83
Total closed cases			412
Cases still open			409
Total Sample			821

The TTD enters into payment agreements in a variety of situations. The Court is reluctant to take peoples' property and will, almost always, entertain repayment efforts. The TTD knows that by experience and generally will agree to reasonable payment plans recognizing the court would so order if the case was heard. Agreements usually require one-third to one-half down, with payments spread out for no more than two years. The TTD also has the ability to monitor those agreements by allowing the case to reach a certain point in the land court

process. As long as payments are current, the case will proceed no further. However, failure to comply results in a resumption of legal action.

RECOMMENDATIONS FOR THE LAW DEPARTMENT-TAX TITLE DIVISION

1. The department should set up a schedule to manage the backlog of tax delinquent cases currently held by the Collector-Treasurer. TTD can file up to 150 cases per week in Land Court. A plan on the filing of backlogged cases would ideally have old cases prepared while current cases are pending during the six months waiting period.

2. The department needs to improve efforts to identify people who must legally be notified of foreclosure action. The use of students using phone books and outdated Polk directories has been ineffective. The addition of one or two full time staffers to do that work would speed up the foreclosure process.

3. There should be a better method devised to monitor cases in land court. Staff employees file through the dockets daily to monitor progress, chart the progress and ultimately transfer it to the file. It is a slow process that should be computerized.

4. All cases received by the TTD should be filed in land court within one week of receipt from the Collector-Treasurer. The department insists that that is its objective yet it has not reached it.

5. As the City's attorney, the TTD should have full responsibility for payment agreements on all petitioned cases. The TTD has shown that it manages payment agreements effectively. It has been embarrassed entering court only to find that the party has a payment agreement with the Collector Treasurer.

DISPOSITION OF PROPERTY

The initial focus of the Finance Commission in undertaking this inquiry was the disposition of property in tax possession. The Flynn Administration halted the auctioning of property in tax possession in the fall of 1984. It did so because such properties oftentimes remained in an unimproved condition under new owners. It adopted a new policy of selling properties to owners who would develop them into low and moderate income housing. The new policy of the administration was designed to rid the City of abandoned buildings while at the same time addressing the housing needs of the City of Boston.

The Finance Commission has evaluated the implementation of the Mayor's new policy and makes the following findings:

1 - Implementation has been slow resulting in the successful renovation of only a limited number of properties;

2 - Properties were sold to individuals or non-profit organizations with no documentation defending the merit of the transactions. The sale of some property was done with little or no public advertising;

3 - Properties were sold to individuals and non-profit organizations who were unable to finance the renovation of the properties they bought;

4 - Properties were conveyed, in most cases, without any legal provisions that would insure that the use of the buildings complied with the low and moderate income housing goals of the administration;

5 - The management system established to track the progress of properties conveyed as well as those identified as having the potential for renovation was inadequate to manage the program;

6. Substantial amounts of time were spent preparing plans for the renovation of property which was in tax delinquency but ultimately redeemed prior to foreclosure resulting in wasted efforts by city officials;

7 - The disposition process has been completely overhauled during the past six to eight months by the Public Facilities Department. It has reorganized the department and created an effective administrative strategy which should result in a much improved disposition process.

The disposition process which began in the fall of 1984 was intended to accomplish two objectives; to help rid the City of the problem of abandoned property and to use that property as a resource to create low and moderate income housing. The Mayor created a working group of department heads whose departments were involved in property acquisition or disposition to accomplish those tasks. The group was referred to as the Property Disposition Committee (PDC). It has established policies and adopted measures to implement its goals. However, the group is misnamed. It does not make decisions on the disposition of specific parcels of property. Those decisions are made by the Public Facilities Commission. The PDC created the Clearinghouse, the mechanism used to implement its policies. Staff support was allocated and a system created to identify property for possible development.

The disposition process was not intended to be revenue producing. Back taxes are forgiven and the property is sold below market value as the city's contribution to the development of affordable housing. The policy has a higher cost to the city than under the auction system where property was sold to the highest bidder and there was only a minimal amount of administrative costs. An analysis of the past five plus years gives an indication of the direct costs of the new policy.

<u>Fiscal Year</u>	<u>Income from sale of Foreclosed Prop.</u>	<u>No. Petitions Filed</u>	<u>Withdrawals</u>	<u>Fore closures</u>
1982	\$1,765,189	633	242	317
1983	2,489,120	1,830	397	380
1984	2,790,562	1,910	854	246
1985	889,665	1,162	1,089	189
1986	115,518	1,559	1,320	168
1987(thru 2/87)	-	320	849	133

The income from the sale of foreclosed real estate dropped from \$2.8million in 1984 to \$115,000 last year. It is also apparent that property has rapidly increased in value. The number of foreclosures has gone down steadily since 1983. More cases have been withdrawn and the property redeemed because of its increased value.

The Clearinghouse hoped to manage the flow of information from a delinquency, through foreclosure, to the successful renovation of abandoned buildings. The Clearinghouse also identifies priority properties which are candidates for rehabilitation. It has spent a considerable amount of time becoming a source of information on abandoned property. It has inventoried properties in tax possession to identify their potential for development. The PDC updated the abandoned property tracking system and the vacant land tracking system. It is continuing work on the development of a management system which will track properties. The lack of such a system to date has been a major drawback in the disposition process.

The Public Facilities Department is responsible for selling property with the approval of Mayor Flynn. Until recently it experienced numerous problems managing those sales. There were no established criteria to determine how decisions would be made on conveying property. A review of most case files raises questions about the rationale that explains how people were selected to purchase city property. Some sales were made directly to non-profit corporations

without any effort at seeking competition. The selection process was haphazard and led to properties being sold to people who could not complete the rehab work.

The following chart examines the status of conveyed property:

Properties conveyed-----	79
Completed owner-occupied multi-family	
buildings-----	8
Completed owner-occupied single family-----	4
Properties conveyed with no progress-----	8
Abutter lots conveyed-----	23
Conveyed with construction just started-----	2
Properties nearing completion-----	6
Incomplete-----	9
Completed, buyers being selected-----	4
Commercial use-----	4
Pending a decision at the abandoned	
housing bank-----	5
Progress begun and then halted-----	5
Vacant lot package with other lots-----	1

This breakdown of properties conveyed by PFD points out the problems in the disposition process. Eight properties have had no progress whatsoever, another ten have had only minimal progress and are currently stalled. Nine more are incomplete and beyond the scheduled completion date.

The potential for a sound program remains and there have been some success stories. Number 15 Algonquin St. was successfully renovated into a 3 family unit. The city subsidized the renovation in that it had delinquent taxes of \$28,500 and a fair market value of \$20,000. It was conveyed for \$1 but its renovation has improved the neighborhood and provided housing. Others have been similarly successful; 50 Elmore St., 258 Norfolk St. and 29 Bradlee are all examples of how well the program can work. However, other sales have had poor results. Number 20 American Legion Highway had outstanding taxes due of \$26,000 and was valued at \$20,000. It was sold for \$1 but remains in an unimproved condition after a period of two years. Similarly, 19 Whitman St. and

5 Hartwell St. were both conveyed with good intentions yet have had no work done after two years.

The Commission reviewed the case files of every property sold by the Public Facilities Department. The files do not include an analysis of the decision making process that led to the selection of the person to whom the property was sold. Many properties had a number of proposals submitted yet no formal evaluation of those proposals is included in the files. There is no rationale defending the sale of property where competing proposals exist.

Property was also conveyed, in some cases, without its availability being advertised. Some property was conveyed to non-profit corporations with experience in the rehabilitation of abandoned buildings without the property being advertised. The sale price was nominal and the rationale was that the experience of the non-profits in the housing business would lead to the more expeditious development of the property. In some cases, however, that did not occur. PFD did not insure that financing was in place in all its transactions. For example, the Roxbury Multi-Service Center was conveyed three abandoned properties on Rockville Circle, each for \$1. It was not required to show evidence of financing and, in fact, did not have it in place. The result was a long delay in renovating those buildings which were made available for rehab two years ago.

Property was also conveyed without any legal requirement that it would be redeveloped as proposed. One of the main concerns about the former auction system was that property was sold yet not renovated because the city made no such requirements. The same problem has continued under the new system. Several properties were resold after being conveyed by the city while others had no work done on them and they remain in poor condition. PFD did not insure that properties were sold to the most qualified buyer. It did not require the buyer

to fully identify the means of financing or keep to a reasonable construction schedule.

One of the principle needs of the Property Disposition Committee was a management system which could track the progress of any property in the system. There was no reasonable way to identify the status of property whether it was in delinquency, in land court, in the process of being sold or conveyed. The departments involved in the process all maintained their own systems and there was no integration. It was impossible to manage such an effort without an integrated management tracking system. The Commission spent a considerable amount of time questioning why such a system was not only not in place but not yet on the drawing board. The Property Disposition Committee finally, last November, addressed the problem and identified the information necessary to manage the system. It is finally on the drawing board but has yet to be implemented.

Over the first year and one-half the Property Disposition Committee wasted time on property it identified as being a potential development site yet which was not yet foreclosed. Time was spent gathering information on property, some of it was advertised for sale and some even had prospective new owners designated before the property was in tax possession. The property in such cases was either redeemed or decrees were granted vacating foreclosure action.

The disposition process appears to have a better future. PFD has introduced steps to resolve the problems that prevented the successful renovation of abandoned property. It has put considerable emphasis on the problem and has put a management system in place which should deliver results. It addresses the shortcomings of the process to date and includes:

1 - A more thorough system of advertising. All properties are advertised. Proposal packages will exist for each property and technical assistance is available for those who may require it.

2 - The review process will be improved. Criteria included are financial and technical feasibility, low and moderate income benefits, Boston residency, first time home buyers receiving preference, utilization and track record.

3 - Selected buyers have credit checks done, financial statements verified, have an arson check done, are reviewed by the Fair Housing Commission and checked for tax delinquency.

4 - The final designation is more comprehensive and work progress will be monitored. Performance guarantees are included in each transaction.

RECOMMENDATIONS FOR PROPERTY DISPOSITION

The program to date has had only limited success. It has been poorly managed resulting in unwarranted sales and incomplete projects. The Commission has been encouraged by the manner in which PFD has recently adopted an improved management capability. PFD has a system in place which should generate results. However, it is too early to evaluate it as no properties have been sold and successfully developed under the new administrative procedures. Nevertheless, the Commission believes that the new policies should eliminate most of the past problems and recommends the following steps:

1. The development of a tracking system is crucial to the eventual success of the program. Although on the drawing board it remains incomplete and

should be the number one priority of the PDC. It is impossible to manage property from acquisition to renovation without a tracking system. The system will accomplish two important objectives. It will identify the status of parcels as they progress through the system and it will also serve to evaluate the ability of departments to manage their part of the process. The cause of backlogs should become apparent and objective evaluations of performance can be made.

2. Every parcel should be publicly advertised and consideration should be given to first time home buyers. It is apparent to date that various non-profit corporations have enjoyed advantages. Sales were made without a public process and preference given to non-profits. The sale price on property sold to non-profits was always nominal, often \$1. They were often not required to prove the financial capability to get the job done. PFD tended to be more comfortable with such sales because of the successful track records of non-profits. The first time home buyer did not receive similar treatment. We encourage PFD to do everything possible to bring new home owners into the process and to provide them with technical assistance where needed.

3. Every sale should be thoroughly documented so that anyone reviewing the process can readily identify the rationale for each conveyance.

4. Time should not be wasted on properties not in tax possession. The city cannot afford to use resources on property that may be redeemed. Recent history is evidence of the problem. Most properties are redeemed at some point. The city needs to recognize that fact and not consider foreclosure as a means to acquire property for resale.

5. The largest available development resource is vacant land. The City has over 3,000 vacant parcels in tax possession and over 2,000 more in tax

delinquency awaiting action by the Collector. Parcels that can be packaged should be identified and the others offered to abutters.

CONCLUSION

The original intent of this investigation was to analyze the way the city disposed of surplus property. The Flynn Administration had created a new disposition process in the fall of 1984 intending to create more affordable housing units by utilizing the resource of abandoned buildings. The implementation of that policy has been slow and inefficient due to an inadequate administrative strategy. Over the first two years sales of foreclosed properties were made haphazardly . The result was predictable. There were relatively few properties successfully renovated and subsequently occupied by low and moderate income tenants. Over the past six months the Public Facilities Department has adopted measures which should improve the disposition process. We expect that recent and future sales will result in the creation of some much needed housing units. The Commission plans to follow-up on this investigation to determine if that occurs.

Early in our investigation we found that the key to the disposition process was the acquisition of foreclosed property. The longer properties are allowed to remain abandoned, the more difficult and costly the renovation. A series of internal struggles existed within the Flynn Administration over the foreclosure process. Housing advocates saw it as an opportunity to create some much needed housing. However, the Collector Treasurer and the Law Department argued that foreclosure is the last step in the collection process and should not be used as a method of acquiring property for disposition. The Finance Commission agrees that foreclosure exists solely to resolve tax delinquencies.



Nevertheless, the effective management of the backlog of tax delinquent cases is beneficial to the disposition process.

The Commission reviewed the management of the Office of the Collector-Treasurer and the Tax Title Division of the Law Department in the foreclosure process. There is a substantial backlog of tax delinquent cases, due to the fact that the Collector-Treasurer has not effectively managed that backlog. Although the backlog was not initially created by the Flynn Administration, it has been identified over the past three years as a problem. The administration's own management task force found it to be a problem and offered solutions. Additional staff resources were sought and funded. Despite this, the problem remains.

The Tax Title Division has the task of managing the foreclosure process. It is generally a well managed office. Many of the problems that exist are due to the length of tax delinquencies before litigation is sought by the Collector. It is more difficult to manage cases where taxes were outstanding for over five years and in many cases, more than ten years. The office could use more staff, especially in the area of determining parties requiring notice in a foreclosure action.

Although foreclosure is not the means to acquire property, it is a fact that the more efficient the management of tax delinquent properties the better it is for the disposition process. The Flynn Administration can be successful with its goal of creating affordable housing utilizing tax possession properties. But it must resolve the current backlog, not allow a recurrence and insure that all sales result in the successful reclamation of abandoned properties.



